

## Cotati City Council Agenda Staff Report

**Item type:** CONSENT CALENDAR (ACTION)  
**To:** City Council  
**Subject:** Electric Vehicle Charging Reach Code Ordinance  
**Date:** June 27, 2023  
**Written by:** Autumn Buss, Associate Planner

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### **Recommendation**

It is recommended by the Community Development Department that the City Council conduct the second reading and adopt an ordinance amending the City’s Building Code (Chapter 14, Building and Construction, of the Cotati Municipal Code) to require increased electric vehicle charging infrastructure and equipment in building projects.

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### **I. Background**

In October 2022, Cotati adopted the 2022 Building Code, including the Tier 1 voluntary measures in the Green Building Standards Code (known as “CALGreen”), which include higher standards than those of the basic, mandatory Code relating to installation of electric vehicle (EV) charging. The 2022 Building Code is in effect 2023-2025.

The City Council held a workshop on April 25, 2023 on potential “reach codes” to amend the City’s Building Code to require 1) additional EV charging and/or 2) all-electric infrastructure in newly constructed and some existing buildings. A frequent goal of these types of reach codes (so called because they “reach” above and beyond the basic mandatory standards) is to help jurisdictions meet their climate change goals by reducing greenhouse gas emissions.

The City Council expressed support for both reach code options, including adoption of the new, more stringent Tier 1 measures for EV charging that are part of the California Building Standards Commission’s (BSC) proposed Intervening Code (mid-cycle) update for CALGreen. The Intervening Code’s mandatory measures will go into effect statewide on July 1, 2024. The City Council expressed support not only for adopting the higher, voluntary Tier 1, but also for adopting these standards as soon as possible.

A recent Ninth Circuit panel ruling against the City of Berkeley's ban on natural gas infrastructure, in *California Restaurant Association v. City of Berkeley* (2023), is necessitating additional review of the advisability of adopting an all-electric building reach code ordinance for Cotati. The legality of EV charging reach codes, however, is not currently in question. For this reason, a reach code related to EV charging only is recommended at this time.

On June 13, 2023, the City Council unanimously introduced the draft Ordinance at a duly noticed public hearing.

## II. Analysis/Discussion

The Intervening Code update typically includes a number of minor changes that clarify and improve implementation of the existing Code. In the current proposed Intervening Code, however, there are some substantial changes to CALGreen related to EV charging at the mandatory and voluntary Tier 1 and Tier 2 levels. The most significant changes will impact multifamily residential developments and hotels/motels. There are a few changes to requirements for non-residential projects, as well.

Below is a description of the proposed Tier 1 changes in the Intervening Code, which are reflected in the proposed EV charging reach code ordinance. Refer to *Attachment 1: EV Charging Glossary* for more information and definitions.

**Single family/duplex:** No substantial changes are proposed in the Intervening Code. The standard for Cotati would remain as it is currently in the existing Code: One parking space in newly constructed single family and duplex homes must be Level 2 EV Ready.

**Multifamily and hotels/motels:** A significant increase in EV charging requirements for new multifamily developments and hotels/motels is proposed in the Intervening Code. The proposed EV charging reach code ordinance includes the Tier 1 standards in the Intervening Code: 50% of parking spaces must provide Low Power Level 2 Receptacles, and an additional 15% of parking spaces must provide Level 2 EVSE (chargers). In addition, multifamily developments with assigned parking must provide at least 50% of the assigned parking spaces with Low Power Level 2 Receptacles.

The table below shows the proposed multifamily and hotel/motel standards in comparison to the existing 2022 Code EV charging standards. Cotati's existing Code includes the Tier 1 voluntary standards.

### Multifamily, Hotel/Motel EV Charging

Size	Measure	CALGreen	CALGreen Voluntary	
Existing 2022 Code		Mandatory	Tier 1	Tier 2
<b>Small (&lt;20 units)</b>	Level 2 EV Capable	10%		
	Low Power Level 2 Receptacles	25%	35%	40%
<b>Large (&gt; 20 units)</b>	Level 2 EV Capable	10%		
	Low Power Level 2 Receptacles	25%	35%	40%
	Level 2 EVSE	5%	10%	15%
Proposed Intervening Code		Mandatory	Tier 1	Tier 2
<b>All sizes</b>	Low Power Level 2 Receptacles	40%	50%	55%
	Level 2 EVSE	15%	15%	20%

In addition, the existing Code requirements for existing multifamily will remain in place: additions or alterations to existing parking facilities, or to electrical systems or lighting in existing parking facilities that require a building permit, will trigger a requirement that 10% of the total number of parking spaces added or altered shall be EV Capable.

**Nonresidential:** The proposed changes for nonresidential projects in the Intervening Code are less significant. The Tier 1 standards for new development, which use a variable formula to specify number of parking spaces to be EV Capable or have EVSE installed (per Table A5.106.5.3.1 in the ordinance), will be clarified to require that a minimum of one parking space per new development provide an EV charger. In addition, requirements for charging for medium-

and heavy-duty EVs that have applied to grocery, retail, and warehouse uses will be extended to manufacturing facilities and office buildings. The requirements for added and altered spaces (which currently apply only to multifamily) would be extended to nonresidential buildings and would also be applied when new photovoltaic systems are installed to cover existing parking spaces.

**Accessory Dwelling Units (ADUs):** The existing and Intervening Code mandatory and voluntary provisions for EV charging apply to ADUs. However, most ADUs in Cotati are exempt from the need to provide parking per State law, so relatively few ADU projects will be compelled to provide EV charging.

The changes proposed for the Intervening Code update are still subject to change at this time, although that is unlikely at this point in the process, which began in January 2022. The Intervening Code is due to be considered for adoption by the BSC by August 2023.

If adopted, Cotati's EV charging reach code ordinance must be filed with the BSC. The effective date of the ordinance will be the later of 30 days following the second reading and adoption of the ordinance, or the date of filing with the BSC.

The EV charging reach code would need to be re-adopted, which may include new mandatory measures and/or additional voluntary measures, with the triennial update of the California Building Code in 2025 (taking effect January 1, 2026).

A strikeout version of the proposed ordinance is included as *Attachment 2* to the staff report, to allow comparison of the Tier 1 provisions and the mandatory provisions they are replacing.

### **III. General Plan Consistency**

The proposed ordinance to increase EV charging requirements is consistent with the following goals of the City's General Plan:

#### Circulation Element

Objective CI 3A: Reduce the levels of greenhouse gas (GHG) emissions created by automobile traffic in Cotati.

Policy CI 3.1: Actively support the Regional Climate Protection Authority (RCPA) in its efforts to reduce GHG emissions to a level that is 25% below 1990 levels by 2015 and 40% below 1990 levels by 2035.

Conservation Element

Objective CON 2B: Reduce emissions of greenhouse gases from city operations and community sources.

Policy CON 2.7: Continue to aggressively implement the greenhouse gas (GHG) reduction measures contained in the 2008 Cotati Greenhouse Gas Emissions Reduction Action Plan.

Policy CON 2.8: Support the development and implementation of a GHG reduction plan, or Climate Action Plan, that addresses and reduces GHG emissions associated with community operations, including but not limited to: mobile sources (vehicle traffic), energy consumption, and solid waste.

#### **IV. Financial Considerations**

The proposed ordinance will not have an adverse financial impact on the City. The staff time to prepare the ordinance will be absorbed into the Community Development Department's budget and staff time to review and process building permits for projects including EV charging will be recovered through building permit fees.

#### **V. Environmental Issues**

The proposed ordinance is exempt from the California Environmental Quality Act (CEQA) under the following Sections:

1. 15061(b)(3) on the grounds that these standards are more stringent than the State green building standards, there are no reasonably foreseeable adverse impacts and there is no possibility that the activity in question may have a significant effect on the environment.
2. 15145 on the grounds that no physical changes to the environment will result from adoption of the proposed code amendments alone and that evaluation of future project-level impacts would be too speculative to include in this analysis. Future developments allowed by the code amendments would be subject to individual review and to project-specific use, development, and design standards on a project specific basis, including project-level CEQA analysis if applicable.

3. 15183 on the grounds that the proposed code amendment is intended to maintain the potential intensity of development that may otherwise be permitted in the underlying zoning districts where developments subject to the code amendment may occur. Thus, the proposed code amendments maintain the current potential for environmental impacts as analyzed in the Cotati General Plan Environmental Impact Report (EIR) (SCH# 2013-08-2037), certified in March 2015.
4. Section 15268 on the grounds that pursuant to Government Code Section 65850.7(b), cities shall administratively approve electric vehicle charging stations through a nondiscretionary building permit. In accordance with Section 15268, ministerial projects, such as issuance of a building permit, are exempt from CEQA.
5. Sections 15307 and 15308 on the grounds that: a) the City, as regulatory agency, is authorized to amend the Green Building Standards Code; b) this ordinance assures the maintenance and protection of the environment by amending the Green Building Standards Code to impose more stringent EV charging requirements for future buildings and certain additions and alteration; and c) the ordinance will institute regulatory requirements intended to protect the environment and natural resources by requiring installation of more EV charging infrastructure, which will reduce the amount of fossil fuels burned, thereby reducing the amount of GHG emissions.
6. Section 15378 on the grounds that this action is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Attachments:

Attachment 1 EV Charging Glossary (PDF)

Attachment 2 Ordinance including strikeouts(PDF)

Attachment 3 Staff Presentation (PDF)

## Attachment 1: Electric Vehicle (EV) Charging Glossary

**Charger, or Electric Vehicle Supply Equipment (EVSE):** A permanently installed device that can be plugged directly into an EV. Connection types vary and converters may be needed.

**Receptacle:** An outlet that can be used to charge an EV via portable charging equipment or which can be used to power a permanently installed charger.

**Level 1 EV Ready:** A parking space with the lowest level of charging, which requires 12 or more hours to reach a full charge. It consists of a dedicated (single purpose) standard 120-volt, 20-amp receptacle.

**Level 2 EV Ready:** A parking space with an electric circuit that can support a standard Level 2 charger, which has four times the power of a Level 1 charger. It typically provides an 80% charge in about 3 hours. It consists of a dedicated 208/240-volt, 40-amp circuit and receptacle that can be used by portable charging equipment or a permanently installed on-site charger.

**Level 2 EV Capable:** A parking space capable of supporting *future Level 2* EV charging, which includes raceway and/or sheathed cable, panel capacity, and circuit breaker space for a 208/240-volt, 40-amp minimum branch circuit.

**Low Power Level 2 Receptacle:** A parking space with mid-level charging capacity that has half the power of Level 2 EV charging. It consists of a dedicated 208/240-volt, 20-amp circuit and receptacle that can be used by a portable charger. It is useful in situations where electrical capacity is limited and where slower charging times can be tolerated.

**DC Fast Charger:** A parking space with the highest level of standard charging for automobiles. It can typically provide an 80% charge in 20 minutes. It requires a minimum circuit capacity of 400 volts and 100 amps.